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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,891	01/21/2004	Jeffrey Childres	31636-US04-01	4231

5179 7590 10/20/2005

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201 THIRD STREET, N.W.  
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ALBUQUERQUE, NM 87102

EXAMINER
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SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,891

Applicant(s)

CHILDRES, JEFFREY

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/21/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### ***Election/Restrictions***

Applicant's election without traverse of the invention of Group I, claims 1-13, and the species of Fig. 1 in the reply filed on August 01, 2005 is acknowledged.

Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 01, 2005.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3-5, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Meilleur '659.** As to claims 1, 3 and 11, Meilleur discloses, Figs. 5 and 6, at least two insulated concrete forms 1 comprising first and second substantially opposing panels 3 and a plurality of ties 33 interconnecting the first panel and the second panel. A joining clip 35 serves as a positive connection between immediately adjacent ties of at least two contiguous vertically adjacent insulated concrete forms.

As to **claims 4, 5, 9, and 10**, wire ties 33 serve as an interconnecting member to which the joining clip 35 may be removably fastened in both a vertical and horizontal orientation.

As to **claim 12**, the joining clip 35 has an elongated structure with a first end 37 and a second end 39 with each of the first end and second end being formed to define an acute angle for engaging about at least a portion of the immediately adjacent ties.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meilleur '659 in view of either of Thomson et al. '372 and Cantarano et al. '059.**

Each of Thomson et al. '372 and Cantarano et al. '059 teach, horizontally tying together of concrete forms with a tie element attached to reinforcing wires of the form elements, 64 and 64a tying together 51 and 51a of the forms 20/22/62 in Figs. 5 and 6 of Thomson et al. and 140 tying together tie plates 24 of the forms 116 in Figs. 13-14 of Cantarano et al., see also col. 7, lines 26-33 and col. 9, lines 34-41 of Cantarano et al.

Therefore, to have provided the Meilleur form assembly with clips 35 serving to attaché and hold together horizontally adjacent forms, thus assuring alignment of the established form assembly, would have been obvious to one having ordinary skill in the

art at the time the invention was made as taught by either of Thomson et al. '372 and Cantarano et al. '059.

**Claims 2, 3, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meilleur '659 in view of Miller et al. '646.**

Miller et al. '646 teaches, Figs. 11, 12, and 14, both vertically and horizontally tying together of concrete forms with a tie portion 132a, 134a, 233a attached to reinforcing wires 130B, 130 of the form elements 20. Miller et al. teaches forming the wires of steel.

Therefore, to have provided the Meilleur form assembly with clips 35 serving to attaché and hold together horizontally adjacent forms, thus assuring alignment of the established form assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Miller et al. '646. Forming the clips 35 of Meilleur of a steel, including a "mild steel", thus providing a light sturdy clip element, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made as taught by Miler et al. at col. 3, lines 59-60 and in cols. 5 and 6.

**Claims 6-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meilleur '659 in view of Tolliver '026.**

Tolliver teaches, Figs. 2, 6, and 6a, utilization of a clip 20, 50, 50a in the form of a wire bent in a U-shape forming two parallel legs 26/22/24, 34/36/38 or 51, 52 or 51a,

52a with a first open end and a second closed end 28/30/31/32/34 or 53 or 53a with at least one of the first open end and second closed end formed in an acute angle for engaging about a portion of a tie or wire A, B. Tolliver teaches forming the clip of a "mild steel", col. 6, lines 50-51.

Therefore, to have provided the Meilleur form assembly with a tie clip made of "mild steel" in the form of a wire bent in a U-shape forming two parallel legs having a first open end and a second closed end and with at least one of the first open end and second closed end formed in an acute angle for engaging about a portion of a tie 33, thus assuring a secure alignment of the established form assembly with a light sturdy clip element, would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made as taught by Tolliver '026.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



M. Safavi  
October 05, 2005

**MICHAEL SAFAVI**  
**PRIMARY EXAMINER**  
**ART UNIT 354**